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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/717,478 | 11/21/2003 | Hideo Nanataki | 03500.017726 | 9356 |
| 5514 7590 04/14/2005 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112 | | | EXAMINER BRASE, SANDRA L | |
| | | | ART UNIT 2852 | PAPER NUMBER |

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/717,478

Applicant(s)

NANATAKI ET AL.

Examiner

Sandra L. Brase

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5-7 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/21/03&12/18/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. Figures 5-7B should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 13a. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

4. The disclosure is objected to because of the following informalities.

Appropriate correction is required.

On page 19, line 5, “N” should be changed to “N1”.

On page 27, Table 1, a description as to the meaning of the symbols x and o needs to be provided.

5. The abstract of the disclosure is objected to because of the inclusion of legal language, where “said” appears on lines 4, 7, 8, 9, 10, 13, 16, 17, 19 and 20. Correction is required. See MPEP § 608.01(b).

Claim Objections

6. Claims 1-7 are objected to because of the following informalities. Appropriate correction is required.

On line 14 of claim 1, “with the third rotatable member” should be deleted since it is considered to be redundant.

On lines 15 and 22 of claim 1, “elements” should be changed to “element”.

On line 16 of claim 1, “of” should be inserted before “third”.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al. (JP 2002-236426).

9. Suzuki et al. (...426) disclose an image heating apparatus for heating an image formed on a recording material, comprising: a first rotatable member (1); the first rotatable member contacting a second rotatable member (2), wherein the recording material (P) bearing the image passes through a nip portion formed at a position between the first rotatable member and the second rotatable member (figure 6); heating means (3) for heating the first rotatable member, the heating means including a third rotatable member (21) that is flexible and a temperature detecting element (23), wherein the third rotatable member contacts the outer peripheral surface of the first rotatable member, wherein the temperature detecting element is provided in an area of an inside surface of the third rotatable member, wherein the first rotatable member and the third rotatable member contacts in the area (figure 6); and control means for controlling the heating means based on detecting the temperature of the temperature detecting element ([0058] – [0063]). The heating means (3) has a heater (22) provided inside of the third rotatable member and in an area where the first rotatable member and the third rotatable member are in contact

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with each other (figure 6). The third rotatable member can be a resin film or a metallic film ([0047]). The control means controls energization to the heating means so as to keep the temperature detected by the temperature detecting element at a set temperature during fixation, where this set temperature is higher than a temperature at a non-fixation period such as before image fixation occurs ([0058] – [0063]).

Allowable Subject Matter

10. Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Urban (US 4,920,250), Fuji (US 4,977,431), Cahill (US 6,289,185), Tange (US 6,304,741), Hirst et al. (US 6,445,902) and Izawa et al. (US 6,763,205) disclose a fixing apparatus including a first rotatable member and a second rotatable member in contact with the first rotatable member, where a third member heats the outer surface of the first rotatable member.


Inquiry

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra L. Brase whose telephone number is (571) 272-2131. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur T. Grimley, can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sandra L. Brase
Primary Examiner
Art Unit 2852

April 7, 2005